

REMARKS

Acceptance of Request for Continued Examination

Applicant appreciatively acknowledges the Examiner's acceptance of the Request for Continued Examination submitted with the August 28, 2009 Office Action Response.

Canceled Claims

Claim 29 is canceled by this response.

Amended Claims

Claim 28 is amended for clarity and to include the limitations of claim 29, which the Examiner said recites patentable subject matter. Claim 28 now recites:

A modular pool comprising
substantially vertical side walls comprising modular metallic panels and a floor comprising metallic tiles, said side walls and said floor resting upon a base structure formed from a lattice comprising metallic U-shaped beams with metallic U-shaped sleepers placed crosswise between said beams, each one of said modular metallic panels comprising a central vertical rectangular portion with flanges along its horizontal and vertical edges, the horizontal flanges along the horizontal edges being at right angles to said central portion, and the vertical flanges along at least one of the vertical edges being at right angles to said central portion, said central vertical rectangular portion **being** flat, each wall comprising one or more assemblies formed by the superposition of two or more said modular metallic panels assembled in a vertically coincident relationship with their vertical sides rectilinearly aligned, the juxtaposed horizontal flanges of said superposed modular metallic panels being joined by semi-permanent attaching means and the vertical flanges of each assembly being vertically aligned in a rectilinear relation, and a vertical **reinforcing** member which has its length substantially equal to the height of said assemblies being interposed between the vertical flanges of adjacent assemblies and attached thereto by semi-permanent attaching means,
in which the floor of said pool comprises a plurality of metallic modular tiles forming a substantially planar surface which supports the vertical pressure due to the water inside the pool,
wherein each said modular tile comprises:
a rectangular flat plate having:
longer sides and shorter sides;
ends that rest upon the sleepers of said base structure;
and
marginal portions between said sleepers, said marginal portions being bent downward forming flanges along the longer sides of said flat plate,
said tiles being placed with said flanges in a mutually adjoining relation.
[Emphasis added]

The recitation of “vertical **reinforcing member**” is supported at page 9, lines 10-11 of the substitute specification.

Claim 30 is amended to recite, in pertinent part:

“...wherein said vertical **reinforcing member** is an **elongated plate**.”
[Emphasis added]

The amendment is supported by Fig. 14, item 65 and page 9, lines 10-11 of the substitute specification of the present application.

Claim 31 is amended to overcome lack of antecedent basis. It now recites:

The modular pool of claim 28, wherein **the vertical flanges of the assemblies are provided with through-holes** and said vertical **reinforcing member** is an angle iron provided with through-holes in positions coincident with the **through-holes** of the vertical flanges of the assemblies forming a corner of the pool. [Emphasis added]

The recitation of “vertical **reinforcing member**” finds support at page 9, lines 10-11 of the substitute specification.

Claim 32 is amended to overcome lack of antecedent basis. It now recites:

The modular pool of claim 28, wherein **the upper modular panels of said assemblies are provided with upper flanges having through-holes** and a lengthwise reinforcement is provided at the top of the pool's walls by a metal plate **having through-holes, wherein said through-holes in the metal plate** are coincident with the through-holes of the upper flanges of the upper modular panels of said assemblies. [Emphasis added]

Claim 33 is amended to depend from claim 28 instead of claim 29, which as discussed above, is canceled.

ARGUMENTS

References Discussed Herein

The following U.S. Patents are discussed herein:

US 3,026,538 to Boyd et al. (“Boyd”)

US 3,629,985 to Ueno (“Ueno”)

US 5,010,603 to Hertzog (“Hertzog”)

Rejections under 35 U.S.C. § 103(a)

The Examiner’s Action rejects claims 28, and 30-32 as obvious in view of Boyd in combination with Ueno and Hertzog.

All Of The Claims Should Now Be Deemed Patentable: Given that the Examiner identified claim 29 as reciting patentable subject matter, and the limitations of claim 29 are now included in independent claim 28, claim 28 should now be deemed to be patentable. Further, given that claims 30-33 each depend from claim 28, they too should now be patentable.

In addition, Applicant submits the following explanations with regard to certain statements made by the Examiner in the Office Action of September 17, 2009:

Claim 28:

This claim recites, in pertinent part:

“...the vertical flanges along at least one of the vertical edges being at right angles to said central portion, said central vertical rectangular portion being flat, **each wall comprising one or more assemblies formed by the superposition of two or more said modular metallic panels assembled in a vertically coincident relationship with their vertical sides rectilinearly aligned, the juxtaposed horizontal flanges of said superposed modular metallic panels being joined by semi-permanent attaching means and the vertical flanges of each assembly being vertically aligned in a rectilinear relation, and a vertical reinforcing member which has its length substantially equal to the height of said assemblies being interposed between the vertical flanges of adjacent assemblies and attached thereto by semi-permanent attaching means...**” [Emphasis added]

The Examiner states that Boyd fails to disclose and that Hertzog does disclose, “a **vertical member which has its length substantially equal to the height of said assemblies being interposed between the vertical flanges of adjacent assemblies...**” at Fig. 9, item 50, and “**...and attached thereto by semi-permanent attaching means,**” at Fig. 8, item 52. The Examiner continues, stating: “It also would have been obvious to have formed the side wall assemblies with vertical members in order to secure the modular panels to one another and also forming a seal between the panels. The attaching means as well as the vertical members provide a durable and structurally sound modular pool assembly and form a tight, secure joint between adjacent panels.”

Applicant agrees with the Examiner's statement that Boyd fails to disclose a **vertical member**. However, Applicant also submits that the Examiner may have an incomplete understanding of the purpose and importance of a **vertical member** in the present invention, which is to reinforce the walls. Accordingly, Applicant amends claim 28 to expressly recite a “**vertical reinforcing member**.” Simply securing panels to one another is sufficiently provided by a nut-and-bolt attachment between adjacent horizontal flanges (32, 34) and vertical flanges (33, 35) in Figs. 11, 12, and 14 of the present application. Moreover, a tight, i.e., water-impervious joint between panels would require the use of sealing member between panels fashioned

out of a yielding or plastic non-rigid material, in order to fill any surface irregularities of adjoining flanges. Such a material would typically be unsuitable for use as a reinforcing member.

Referring to the **emphasized** language of claim 28, shown above, Applicant now directs the Examiner to the corresponding disclosure in the present application. Fig. 14 of the present application shows two kinds of **vertical reinforcing members** placed between adjacent vertical panels. The first kind is angle iron 46 which is **V-shaped** in cross-section. The second kind is the plate 65 which is shaped as a flat elongated rectangle or plate. Each of members 46 and 65 in the present application function as a reinforcing member, so as to resist the outward stresses due to the water pressure acting upon the modular panels, which may cause outward buckling of the walls.

It is important that Hertzog does not characterize member 50 as a **reinforcing member**, but rather as a “filler.” See Hertzog at col. 4, line 26, disclosing a “**V-shaped filler strip 50 of metal**” and also at col. 4, line 34, disclosing “the pre-formed holes in the **filler piece 50**”.

A **vertical reinforcing member** as recited in claim 28 does not function as a “filler.” As page 9, lines 10-11 of the substitute specification of the present application discloses, it is a “reinforcing member that resists the outward stresses acting upon the side walls.” Buckling is a significant issue with **assemblies comprising two or more panels superposed vertically**. Claim 28, from which claim 30 depends, recites, in pertinent part:

“...each wall comprising one or more **assemblies formed by the superposition of two or more said modular metallic panels** assembled in a **vertically coincident relationship...**” [Emphasis added]

Buckling is a less serious issue in a wall made up of only ONE TIER of panels, which is the type of wall that Hertzog discloses. Hertzog does not disclose “a **vertical reinforcing member which has its length substantially equal to the height of said assemblies,**” which as recited above, are “**formed by the superposition of TWO OR MORE... panels.**” See the language of claim 28, reproduced below:

“...a **vertical reinforcing member which has its length substantially equal to the height of said assemblies** being interposed between the vertical flanges of adjacent assemblies and attached thereto by semi-permanent attaching means...” [Emphasis added]

Claim 30:

This claim recites:

The modular pool of claim 28, **wherein said vertical reinforcing member is an elongated plate.** [Emphasis added]

The Examiner states that Hertzog discloses “**wherein said vertical member is a plate.**” More specifically, the Examiner cites item 50 in Fig. 9 of Hertzog, stating that the **vertical member is a plate** formed from a strip of metal.

However, a closer inspection of Hertzog shows that item 50 in Fig. 9 is an angle iron, i.e., a **V-shaped member** and col. 4, line 26 of Hertzog characterizes it as “a **V-shaped filler strip** 50 of metal.” The **vertical reinforcing member** of claim 30 is neither **V-shaped** nor does it act simply as “filler.” See Applicant’s arguments on this point with respect to claim 28.

Fig. 14 of the present application shows two kinds of **vertical reinforcing members** placed between adjacent vertical panels. The first kind is angle iron 46 which is **V-shaped** in cross-section. The second kind is the **plate** 65 which is shaped as a flat **elongated** rectangle. It is the latter type of member that is recited in claim 30.

Applicant respectfully submits that the use of a **vertical reinforcing member** in the form of an **elongated plate**, such as 65 in Fig. 14 of the application, placed between side wall assemblies, as a reinforcement, is not obvious, not being disclosed or even suggested in any of the references relied upon in the Office Action.

CONCLUSION

Applicant submits that the claims as shown in the present Listing of the Claims are each patentable in view of the prior art. The limitations of claim 29, which the Examiner stated recites patentable subject, are incorporated into all of the pending claims expressly or through dependency. Applicant further submits that this is a complete response to the Office Action of September 22, 2009. Prompt notice of allowance is respectfully requested. If there are any questions, the Examiner is invited to phone Applicant’s undersigned attorneys.

Respectfully submitted:

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